

INITIAL STATEMENT OF REASONS

SECTION 2240 (e) "NONCOMMERCIAL SPEECH"

SPECIFIC PURPOSE OF THE REGULATION.

The Department seeks approval to adopt regulations needed to satisfy a federal court ruling on the constitutionality of the California's Outdoor Advertising Act. The regulation will allow the Department to clarify that commercial speech cannot be given preference over noncommercial speech.

NECESSITY.

The proposed regulation is necessary to comply with the federal court ruling on the constitutionality of the California's Outdoor Advertising Act.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

Maldonado v. Department of Transportation.

The plaintiffs argued that the whole Act should be stricken, which would put California out of compliance with federal law and thereafter 10 percent of the State's federal highway funds. California is allocated \$3.36 billion in this fiscal year, so noncompliance would cost the State \$336 million for the rest of this fiscal year alone. This penalty would continue on an annual basis as long as California is not in compliance with federal law. In short, the Court ruled to allow the placing of noncommercial messages on any lawfully erected Display, including on-premise displays.

This regulation is necessary to comply with the Court's ruling and to preserve vital transportation funding.

OUTDOOR ADVERTISING EXPENDITURE REPORT FOR FISCAL YEAR 2006/2007

None.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

None.